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IN THE

Supreme Court of the United States

OCTOBER TERM, 1960.

No. 200

TRAYTON L. LATHROP,

Appellant,

vs.

JOSEPH D. DONOHUE,

Appellee.

BRIEF OF AMERICAN JUDICATURE SOCIETY AS AMICUS CURIAE.

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In re Integration of the Bar, 5 Wis. 2d 618, 93 N. W. 2d 601 (1958) 20

In re Integration of State Bar of Oklahoma, 185 Okla. 505, 95 P. 2d 113 (1939) 11

Jackson v. Callet, 39 Idaho 382; 228 P. 1068 (1923) .. 8

Kenton County Bar Ass'n v. Murphy, 272 Ky. 617, 114 S. W. 2d 722, cert. denied 305 U. S. 671, 59 S. Ct. 142 (1938) 15

Lathrop v. Donohue, 10 Wis. 2d 230, 102 N. W. 2d 404 (1960) 20

In re Mundy, 202 La. 41, 11 So. 2d 398 (1942) 14

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Petition for Integration of Bar of Minnesota, 216 Minn. 195 25

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In re Shattuck, 208 Cal. 6, 274 P. 998 (1929) 11

In re Sparks, 267 Ky. 93, 101 S. W. 2d 194 (1937) 15

State Bar v. Superior Court, 207 Cal. 323, 278 P. 432 (1929) 10

State v. Cannon, 196 Wis. 531, 221 N. W. 603 (1928).. 11

In the Matter of the Integration of the Virgin Islands Bar, Misc. No. 11-1955 (reprinted in V.I. Code Ann. Vol. 2, Title 5, Appendix 6, Part 3, pp. 352-353).... 17

Virgin Islands Bar Ass'n v. Dench, 2 V.I. 331, 124 F. Supp. 257 (1953); app. dismissed 3 V.I. 521, 215 F. 2d 810 (1954) 17

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Constitutional and Statutory Provisions.

Alaska Compiled Laws 1949, 1957 Cum. Supp. Vol. Title 35, Ch. 2, §§ 35-2-77a to 35-2-77c, pp. 534-541; as amended by Laws 1960, Ch. 178, pp. 282, 284.... 23

Arkansas, Constitution of 1874, Amendment 28..... 22

North Dakota Laws, 1919, Ch. 69..... 7

North Dakota Laws, 1921, Ch. 25..... 7

South Dakota Laws 1931, Ch. 84; S. Dak. Code 1939, 1960 Supp. Vol. Title 32, §32.1101-32.1124, pp. 51-55 12

Laws of Puerto Rico Annotated, Vol. 1, Title 4, Part 4, Ch. 63, §§ 771-785, pp. 872-88- and 1959 Supp. pp. 189-191 24

Texas Acts 1939, 46 Leg. Ch. 1, p. 63 eff. April 19, 1939. Vernon's Texas Civil Statutes Ann. Vol. 1a, Title 14, Art. 320a-1, pp. 191-202, and Cum. Pocket Supp. 1960, p. 7, pp. 203-241, and 1960 Pocket Supp. pp. 7-8 (Rules) 21

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Other Authorities.

"Action Delayed in Iowa," 22 J. Am. Jud. Soc. 207 (Apr., 1938) 25

"Arkansas Court Grants, then Denies, Integration Petition at Bar's Request," 37 J. Am. Jud. Soc. 52-53 (Aug., 1953) 23

"Bar Integration—Compulsory Membership and Payment of Dues," 17 Tulane L. Rev. 493 (Feb., 1943) 14

"Bar Integration Movement Comes to Halt in New Jersey," 42 J. Am. Jud. Soc. 30 (June, 1958)..... 25

"Bar Integration Progress," 25 J. Am. Jud. Soc. 45 (Aug., 1941) 17

"Bar Integration Wins," 3 J. Am. Jud. Soc. 148 (Feb., 1920) 15

"Bar Organization Act," 4 J. Am. Jud. Soc. 111-114 (Dec., 1920) 6

Belknap, "President's Page," 32 N. Y. S. B. Bull. 153-154 (June, 1960) 24

Blashfield, "Is Bar Integration Worth the Candle?" 28 Wis. Bar Bull. 8-10, 64-68 (Oct., 1955)..... 15

Bonisteel, "Twenty-Five Years of Progress," 39 Mich. State Bar J. 20-23 (Nov., 1960)..... 15

Boslaugh, "Integrated Bar of Nebraska," 13 Mo. Bar J. 187-192 (Oct., 1942) 16

Brand, Bar Associations, Attorneys and Judges—Organization, Ethics, Discipline, 1956 ..... 7, 20, 64

Brand, "Bar Integration in the State of Michigan," 14 Ind. L. J. 235-244 (Feb., 1939) 15

Bryson, "Organized Bar in North Carolina," 30 N. Car. L. Rev. 335-355 (June, 1952) 13

"California Bar Act Finally Adopted," 10 J. Am. Jud. Soc. 173 (April, 1927) 10

"California Bar Wins Notable Success in Legislature but Falls Victim to Governor's Veto," 9 J. Am. Jud. Soc. 5 (June, 1925) 10

Coleman, "Presidential Address," 28 J. Am. Jud. Soc. 165 (April, 1945) 30

Conference of Bar Association Delegates, Committee Report, 4 J. Am. Jud. Soc. 83-88 (Oct., 1920) 6

Coulter, "Integration Is the Answer," 32 N. Y. L. Bar Bull. 305-309 (Oct., 1960) 25

Edmonds, "Integration of the Bar—A Boon or a Bust?" 32 N. Y. L. Bar Bull. 247-304 (Oct., 1960) ... 25

Fox, "Proposed Indiana Self-Governing Bar," 38 Commercial Law J. 143-147 (March, 1933) 24

Glaser, The Debate Over the Integrated Bar; The Organization of the Integrated Bar; Bibliography on the Integrated Bar. 30, 35 and 12 pp. New York, Columbia University, Bureau of Applied Social Research 25

Goodwin, "Elihu Root and Charles Evans Hughes Were Early Leaders of the Movement for Integration of the Bar," 34 J. Am. Jud. Soc. 144-150 (Feb., 1951) 28

Guinther, "Supreme Court Can Organize Bar," 17 J. Am. Jud. Soc. 39 (Aug. 1939) 12

Harley, "Affiliation Plan Worked Out in Oregon," 10 J. Am. Jud. Soc. 103-110 (Dec., 1926) 2

Harley, "Concerning the American Judicature Society," 20 J. Am. Jud. Soc. 1, 10 (June, 1936) 2, 3, 4

Harley, "A Lawyer's Trust," 7 Neb. S. B. A. Proc. 143 (1913); 29 J. Am. Jud. Soc. 50-57 (Aug., 1945).. 4

Harley, "What Is Disintegration?" 18 J. Am. Jud. Soc. 84 (Oct., 1934) 11

Harley, "Special Meeting on Bar Organizations Held at Washington," 12 A. B. A. J. 323-331, (May, 1926); 10 J. Am. Jud. Soc. 11-22 (June, 1926) 9, 26, 28

Hawley, "Bar Integration in Idaho," 14 J. Am. Jud. Soc. 141-148 (Feb., 1931) 8

Hawley, "Renaissance of the Bar," 13 Ore. L. Rev. 18-30 (Dec., 1933) 8

Hemker, "Integrated Bar Created by Missouri Supreme Court," 28 J. Am. Jud. Soc. 50 (Aug., 1944).. 17

Holdsworth, History of English Law 3rd Ed., 1923, Vol. 2, pp. 484-512 4

"Idaho Bar Organization Completed," 9 J. Am. Jud. Soc. 141-148 (Feb., 1931) 8

Jackson, "An Organized American Bar," 18 A. B. A. J. 386 (June, 1932) 29

Kidwell, "President's Page," 1 Hawaii Bar J. 5-6 (Jan., 1959) 24

LaFrance, "President's Page," 28 Wis. Bar Bull. 5, (Aug., 1955) 19

"Michigan Bar Integration Bill Adopted," 14 J. Am. Jud. Soc. 21 (June, 1935) 15

Model State Bar Act, Conference of Bar Association Delegates, 4 J. Am. Jud. Soc. 111-114 (Dec., 1920)... 6

"National Meeting on State Bar Organization," 9 J. Am. Jud. Soc. 106-110 (Dec. 1925).....8, 9, 28

North, J., Statement, 25 J. Am. Jud. Soc. 93 (Oct., 1941) 15

"Our Fortieth Anniversary," 37 J. Am. Jud. Soc. 5-9 (June, 1953) 3

"Oregon Joins Integration Column," 18 J. Am. Jud. Soc. 170 (April, 1935)..... 14

"Philadelphia Bar Committee Studies City-Wide Integration," 36 J. Am. Jud. Soc. 154 (Feb., 1953)..... 26

"Planning a Bar Integration Campaign," 27 J. Am. Jud. Soc. 149 (Feb., 1944)..... 27

Pound, The Lawyer From Antiquity to Modern Times, 1953 .....2, 4, 29

"Proposal for Integrated Bar Rejected," 18 Conn. B. J. 3-8 (April, 1944)..... 25

Pryor, "Need for Bar Integration Is Imperative," 21 J. Am. Jud. Soc. 56 (Aug., 1937)..... 25

"Porto Rico Bar Accepts New Act," 17 J. Am. Jud. Soc. 152 (Feb., 1934)..... 24

"Porto Rico Lawyers Secure Bar Act," 16 J. Am. Jud. Soc. 104-106 (Dec., 1932)..... 24

"Puerto Rico's Integrated Bar Prospers," 22 J. Am. Jud. Soc. 85-86 (Aug., 1938)..... 24

"Purposes and Methods of the Judicature Society," 21 J. Am. Jud. Soc. 67 (Oct., 1937)..... 2

"Redeeming a Profession," 2 J. Am. Jud. Soc. 105-124 (Dec., 1918) 5

"Rules for the Integrated Bar," 20 Conn. B. J. 245-259 (July, 1946) 25

"Self-Government Conferred Upon Alabama Bar," 7 J. Am. Jud. Soc. 86 (Oct. 1923) 7

Shea, "Wisconsin's Successful Bar Integration Campaign," 27 J. Am. Jud. Soc. 13-17 (June, 1943) 18, 19

"Should There Be an Organized Bar in the District of Columbia?" J. Bar Ass'n D. C. 225-226 (May, 1960) 24

"Special Committee to Study Integration of the Bar of Indiana Appointed by President," 4 Res Gestae (Ind. S. B. A.) 3 (Jan., 1960) 24

Spies, "Integrated Bar—Pros and Cons—Feasibility in Kansas," 28 J. Bar Ass'n State of Kansas 333 (Feb., 1960) 24

"State Bar Organized in South Dakota," 15 J. Am. Jud. Soc. 70-71 (Oct., 1931) 12

"Statutory Organization for Louisiana Bar," 18 J. Am. Jud. Soc. 110 (Dec., 1934) 14

Sunderland, History of the American Bar Association, 1953, pp. 87-91 ..... 5, 28

"Texas Bar Wins Ten-Year Campaign," 23 J. Am. Jud. Soc. 41 (June, 1939) 21

"Utah and South Dakota Bar Bills Enacted," 14 J. Am. Jud. Soc. 188 (April, 1931) 12

Vanderbilt, "Past Present and Future of the Legal Profession," 20 J. Am. Jud. Soc. 208, 209 (Feb., 1937) 28

"Virginia Bar Bill Enacted," 21 J. Am. Jud. Soc. 207 (April, 1938) 20

"Washington, Arizona, North Carolina Bar Bills Enacted," 16 J. Am. Jud. Soc. 172-173 (April, 1933) 13

Webb, "Whole Bar Organization—A Necessity," 29 J. Am. Jud. Soc. 38, 47 (Aug., 1945) 29

"West Virginia State Bar Puts Integrated States in Majority," 28 J. Am. Jud. Soc. 165-169 (April, 1945) 21

Wigmore, "Roscoe Pound's St. Paul Address of 1906—The Spark that Kindled the White Flame of Progress," 20 J. Am. Jud. Soc. 177 (Feb., 1937) 2

Winslow, "Voluntary Bar in North Carolina," 6 Duke Bar Ass'n J. 19-29 (Winter, 1937) 13

Winters, "Herbert Harley and the American Judicature Society," 30 J. Am. Jud. Soc. 78-104 (Oct., 1946) 2, 3, 5

Winters, "The American Judicature Society and Its Work," Student Lawyer Journal, May, 1957, pp. 11-14, 28 2

Wisconsin Bar Association Constitution, 21 Wis. Bar. Bull. No. 3 (Supp.) (Aug., 1948) 19

"Wisconsin Integration Opinion," 30 J. Am. Jud. Soc. 147-150 (Feb., 1947) 19

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BRIEF OF AMERICAN JUDICATURE SOCIETY AS AMICUS CURIAE.

In his jurisdictional statement the appellant has undertaken to summarize briefly the history and nature of the integrated bar movement in this country, giving prominent mention to the part played by the American Judicature Society and its founder, the late Herbert Harley. Believing that a more complete and adequate telling of this story and of the Society's role in it would be of assistance to this Court in relating bar integration to other specific judicial reform measures and to the broad program for improving the administration of justice in general, the Society's executive committee has directed that this brief be filed for that purpose.

THE AMERICAN JUDICATURE SOCIETY.

As stated by the appellant, the American Judicature Society was founded in 1913 by Herbert Harley, a lawyer-newspaperman of Manistee, Michigan.

"Organization was prompted," said Mr. Harley, "in

> considerable measure by the agitation concerning judicial administration expressed in the movement for recall of judges and other restrictive proposals during previous years."[1]

The Society was conceived as a means of coordinating the reform element of the bench and bar.[2] Bar associations existed in most of the states and the American Bar Association was then 35 years old, but the American legal profession was only slowly finding itself again after a post-Civil War era of decadence characterized by a breakdown of organization, education and professional training which had resulted in a substantial deprofessionalization of the practice of law.[3] The legal profession in the first decade of this century, as described by John H. Wigmore, was—

> "a complacent, self-satisfied, genial fellowship of individual lawyers—unalive to the shortcomings of our justice, unthinking of the urgent demands of the impending future, unconscious of their potential opportunities, unaware of their collective duty and destiny."[4]

There was then no state in which more than one third of the practicing lawyers were enrolled as members of the state bar association.[5]

Herbert Harley spent four or five months of the year

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1. "Purposes and Methods of the Judicature Society," 21 J. Am. Jud. Soc. 67 (Oct., 1937).

2. Harley, "Concerning the American Judicature Society," 20 J. Am. Jud. Soc. 9, 10 (June, 1936); Winters, "Herbert Harley and the American Judicature Society," 78-104 (Oct., 1946); Winters, "The American Judicature Society and Its Work," Student Lawyer Journal, May, 1957, pp. 11-14, 28.

3. Pound, *The Lawyer from Antiquity to Modern Times*, 1953, Ch. VIII, pp. 221-241.

4. Wigmore, "Roscoe Pound's St. Paul Address of 1906—The Spark that Kindled the White Flame of Progress," 20 J. Am. Jud. Soc. 177 (Feb., 1937).

5. Harley, 10 J. Am. Jud. Soc. 23 (June, 1926).

1912 touring the entire country interviewing such reform-minded lawyers and judges as he could find and gathering ideas on how support for a judicial reform movement might be mobilized. The consensus was that it could not be done through any of the existing professional organizations and that a new organization would have to be created. Upon his return, he drew up plans for a new national organization to promote the efficient administration of justice. The American Judicature Society was incorporated in Illinois on July 15, 1913, with Roscoe Pound, dean of the Harvard Law School, John H. Wigmore, dean of Northwestern University Law School, Woodbridge N. Ferris, later United States senator and governor of Michigan, John B. Winslow, chief justice of the Supreme Court of Wisconsin, Harry Olson, chief justice of the Municipal Court of Chicago, and other outstanding leaders of bench and bar as its incorporators.[6]

Mr. Harley's preliminary outline of the field in which the new organization was to operate was as follows:

> "1. The judges—their manner of selection, compensation, tenure, administrative and judicial powers.
> "2. The bar—its requirements for admission, ethics, and scope of advocacy.
> "3. The organization of courts.
> "4. Procedure, comprising pleadings and practice."[7]

From the outset it was a main line of policy that the Society would work chiefly in and through the organized bar for the achievement of specific judicial reform projects. This was for the sound and sensible reason that people

6. Harley, *supra*, note 2, at pp. 11-12; "Our Fortieth Anniversary," 37 J. Am. Jud. Soc. 5-9, 7 (June, 1953).

7. From a "Circular Letter Concerning the Administration of Justice" mailed to 254 leading lawyers and judges in 29 states as a follow-up to his trip. Winters, "Herbert Harley and the American Judicature Society," 30 J. Am. Jud. Soc. 78, 80 (Oct., 1946).

everywhere tend to be suspicious of outsiders coming in and telling them what to do. The burden of lobbying and campaigning must always be carried by local residents of the state or community. Mr. Harley likened the American Judicature Society's function to that of the chemical catalyst, which encourages, promotes and makes possible a reaction among other substances without itself entering into it or being changed by it.[8]

This meant that the correction of the weaknesses and deficiencies of the bar would necessarily be a prerequisite to any substantial accomplishment in judicial selection, court organization, procedure, or other reform areas.

THE BEGINNING OF THE INTEGRATION CAMPAIGN.

It was with those thoughts in mind that Mr. Harley made a trip to Toronto, Ontario, at the invitation of Chief Justice William Renwick Riddell, to observe the operation of the Canadian bench and bar. He was well impressed with what he saw there, and especially with the organization of the bar, which was unified under the Law Society of Upper Canada on a pattern derived from the English Inns of Court.[9] He came home convinced that a similarly unified, or integrated, bar organization was what was needed in the United States for the achievement of the entire judicial reform program, and he proposed it in addresses delivered in 1914 before the Illinois State Bar Association and the Lancaster County Bar Association of Lincoln, Nebraska.[10]

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8. Harley, *supra*, note 2, at pp. 17-18.

9. The English and Canadian background of the integrated bar is completely set forth in pages 24 through 29 of the Brief for the Appellee in the instant case. See also, Pound, *op. cit.*, note 3, *supra*, Chapters IV and V, pp. 75-128; Holdsworth, *History of English Law*, 3rd Ed., 1923, Vol. 2, pp. 484-512.

10. Harley, "A Lawyer's Trust," 7 Neb. S. B. A. Proc. 143 (1913); 29 J. Am. Jud. Soc. 50-57 (Aug., 1945).

In 1921, seven years after the Illinois and Nebraska speeches, the first integrated bar came into existence in this country, in the state of North Dakota. During the interval the Society had published a series of bulletins containing drafts of proposals for selection and tenure of judges, organization of courts, rules of civil procedure, and small claims courts.[11] In 1917 the publication of the bimonthly *Journal* was begun, and in the December, 1918, issue appeared the text of a proposed state bar act.[12] Like most of the previous drafts, it was the work of Professor Albert M. Kales of Northwestern University.

AMERICAN BAR ASSOCIATION PARTICIPATION.

In 1916 Elihu Root, president of the American Bar Association, called a great national conference of state and local bar association officers to discuss various aspects of bar organization and activities. Similar conferences were held in subsequent years and assumed a continuity under the title "Conference of Bar Association Delegates." More or less autonomous at first, it early acquired status as a section of the American Bar Association, acquired more and more influence, and ultimately became the governing body of the American Bar Association as its House of Delegates in the reorganization of 1936.[13]

The Conference of Bar Association Delegates established in 1919 a Committee on State Bar Organization headed by Judge Clarence N. Goodwin of Chicago, which throughout the entire history of the Conference carried on a continuous and aggressive campaign for adoption of the integrated

11. Dates and titles of all bulletins are set forth in Winters, *op. cit.*, note 7, p. 88.

12. "Redeeming a Profession," 2 J. Am. Jud. Soc. 105-124 (Dec., 1918).

13. Sunderland, *History of the American Bar Association*, 1953, pp. 87-91; and see 46 A.B.A. Rep. 571 (1921) and other citations in Sunderland, Note 55, p. 91.

bar in the states. During the decade of the 1920's the Conference was at least as active a proponent of bar integration as was the American Judicature Society, Herbert Harley serving during most of that time as secretary of both organizations. As an appendix to its first report, delivered at the 1920 A. B. A. convention in St. Louis, the committee presented a second model state bar act, somewhat shorter than the American Judicature Society's draft published two years before.[14]

THE ESSENCE OF THE INTEGRATED BAR.

The integrated bar, as then conceived and as it exists today in a majority of the states, is simply a self-governing organization of the entire bar of a state, established by statute or rule of court. In its 1920 report the A. B. A. Conference committee was at pains to draw the clear distinction, still not grasped by many opponents of integration, between compelling a man to join an association and providing the machinery of organization for a group of which he is already a member.

> "The act should not be an attempt to transform a voluntary organization into a body politic," the report said, "but it should, rather, be a legislative recognition of the fact that the entire *existing* bar of the state, being in its nature a body composed of public officials constituting an integral part of the judicial department, is *inherently* a body politic, and the act should so *declare* it to be. It should provide a governing body selected by the entire bar, which should have powers of discipline and admission subject to review and final control * * * by the supreme court of the state."[15]

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14. The committee report is in 4 J. Am. Jud. Soc. 83-88 (Oct., 1920), and the model act in 4 J. Am. Jud. Soc. 111-114 (Dec., 1920).

15. 4 J. Am. Jud. Soc. 83, 86. (Italics added.)

NORTH DAKOTA THE FIRST.

The first integrated bar in this country, in North Dakota, did not follow either of the model acts. The 1919 session of that state's legislature had passed an act assessing every lawyer $15 a year to defray the expenses of the Board of Bar Examiners.[16] In the next session the bar was able to get enacted a relatively brief act establishing an organization of which all licensed lawyers were declared to be members, and empowering it to "adopt such constitution, by-laws and rules for its government as may be determined at its regular meetings" and allocating $3 of the $15 a year per member for its operation.[17] A constitution and by-laws were adopted on July 7, 1921, and the organization then set up is still functioning today.[18]

Meanwhile the Conference of Bar Association Delegates was promoting its model act, and bills based on it were introduced in a number of state legislatures in 1923, those of Alabama and Idaho being enacted into law that year. The Alabama legislature then had "split sessions" with an interval between introduction and passage of bills.[19] In the first part of the session opposition developed in the House judiciary committee. During the interval the sponsors prepared and published a pamphlet listing the objections that had been raised and answering them.[20] Some amendments also were drafted to clarify language that

16. Laws, 1919, ch. 69.

17. Laws, 1921, ch. 25; 5 J. Am. Jud. Soc. 15, 16 (June, 1921).

18. The bar act was amended in 1923, ch. 133, and the constitution in 1952. Brand, *Bar Associations, Attorneys and Judges-Organization, Ethics, Discipline*, 1956, pp. 471-474.

19. "Self Government Conferred upon Alabama Bar." 7 J. Am. Jud. Soc. 86 (Oct., 1923).

20. Its full text is reprinted in the above article, Note 19.

had aroused fears. The result was that in the second half of the session the measure was enacted into law.

Unfortunately, the Idaho statute was so worded that some lawyers thought its effect was to create a corporation by special legislation, in violation of a constitutional prohibition. For this and other reasons the act was first held unconstitutional; then after appropriate amendments were added in the 1925 legislature it was sustained.[21]

In 1925 also a bar act was passed by the New Mexico legislature, and the 1925 report of the Conference of Bar Association Delegates was able to report legislation introduced or drafted for introduction in 11 states, in addition to the four in which it had already been enacted into law.[22]

THE 1926 WASHINGTON CONFERENCE ON BAR ORGANIZATION.

At this time Charles Evans Hughes, then president of the American Bar Association and subsequently chief justice of this Court, accepted the chairmanship of the Conference of Bar Association Delegates for the following year, 1925-1926, and announced a national conference on state bar organization, to be held under the auspices of the Conference of Bar Association Delegates in Washington,

21. *Jackson v. Callet*, 39 Ida. 382, 228 P. 1068 (1923); *In re Edwards*, 45 Ida. 676, 266 P. 665 (1928). The *Edwards* case was not only responsive to the amendments that had been made, but also reflected a changed attitude on the part of some of the judges of the court. See Hawley, "Renaissance of the Bar," 13 Ore. L. Rev. 18-30 (Dec., 1933); Hawley, "Bar Integration in Idaho," 14 J. Am. Jud. Soc. 141-148 (Feb., 1931). "Idaho Bar Organization Completed," 9 J. Am. Jud. Soc. 37-46 (Aug., 1925) contains history of the movement in Idaho, rules for conduct and discipline of attorneys, text of by-laws and text of revised act.

22. California, New York, Oklahoma, Arizona, Missouri, Florida, Minnesota, Iowa, Michigan, Virginia and Tennessee. 9 J. Am. Jud. Soc. 106, 108-109 (Dec., 1925).

D. C., on April 28, 1926, immediately preceding the annual meeting of the American Law Institute.[23]

The conference was attended by delegates from 40 states in which bar integration was either adopted, pending or under discussion, and also by members of the General Council and the Executive Committee of the American Bar Association. In his opening remarks as chairman, Mr. Hughes said that the project was motivated by "a keen sense of the solidarity of the profession of the law, an appreciation of its standards and ideals, and an earnest desire to promote the administration of justice."

> "Let us also remember," he said, "that there are many states which apparently are ready for a movement of this sort, where it is needed, where those apprehensions are not indulged, where the organization of the bar might have a wholesome effect in producing a better conception of the duties and responsibilities of the profession."[24]

Delegates from Alabama, North Dakota and New Mexico reported at length on the success of integration in their respective states; other delegates discussed the progress of their integration campaigns and compared notes on methods and procedures; and considerable time was given to hearing objections from opposition-minded delegates. The meeting ended with adoption of a resolution sponsored by one of the opposition, but agreed to by all delegates, that the desirability of integration was a matter for the determination of each state in the light of its own conditions and traditions.

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23. "National Meeting on State Bar Organization," 9 J. Am. Jud. Soc. 106-110 (Dec., 1925).

24. Harley, "Special Meeting on Bar Organization Held at Washington," 12 A.B.A.J. 323-331 (May, 1926); parallel account, 10 J. Am. Jud. Soc. 11-22 (June, 1926).

INTEGRATION IN CALIFORNIA.

Within months after the Washington conference bar integration came to the first large state—California—as the culmination of a five-year effort. Among the prominent California bar leaders who had a part in it, Joseph J. Webb of San Francisco was outstanding. Mr. Webb devoted 133 days of his time in one year to addressing local bar groups from one end of the state to the other in behalf of the proposal. The result was that the measure went to the legislature with strong support and backing from a well-informed bar, as well as from the public.

The bill introduced in 1925 passed the legislature but was vetoed by the governor. That governor was defeated for reelection in the 1926 legislature, and when the measure was introduced again in 1927 it passed and was signed into law.

Upon organization and establishment of the State Bar of California the same year, and with North Dakota and Alabama already integrated, it was possible to say that in less than a decade integration of the bar had spread from the Atlantic to the Pacific coast and from the Canadian to the Mexican border.

A number of constitutional issues involving the integrated bar were raised for the first time in a series of actions filed in the California courts during the first few years of existence of the State Bar of California. They resulted in a series of favorable decisions which have been very frequently cited in subsequent litigation involving the bars of other states.[25]

25. "California Bar Wins Notable Success in Legislature but Falls Victim to Governor's Veto," 9 J. Am. Jud. Soc. 5 (June, 1925); "California Bar Act Finally Adopted," 10 J. Am. Jud. Soc. 173 (April, 1927); *State Bar* v. *Superior Court*, 207 Cal. 323, 278 P. 432 (1929) (not unconstitutional as creating private corporation by special act); *In re Shattuck*, 208 Cal. 6, 279 P. 998 (1929) (not unconstitutional delegation of judicial powers); *In re Peterson*, 208 Cal. 42, 280 P. 124 (1929).

INTEGRATION BY RULE OF COURT.

Nevada and Oklahoma were the sixth and seventh states to integrate, in 1928 and 1929 respectively. In the early years of Oklahoma statehood bar admission standards had been low and the supreme court roll was loaded with names of persons who did not in fact practice law.[26] Opposition from some of these made itself felt after integration when the new organization undertook to elevate professional standards, and for 10 years bills to repeal the bar act were introduced in every legislative session. In 1939 a repeal bill was passed. The Supreme Court of Oklahoma, on petition of the bar association and individual attorneys, thereupon reestablished the integrated bar on the basis of court rule rather than legislative enactment, and that organization is still functioning today.[27]

In taking that action, the Supreme Court of Oklahoma set a pattern for bar integration that was destined to supplant the statutory method that had prevailed up to that time. It had long been settled law, of course, in all jurisdictions, that attorneys are officers of the courts and an integral part of judicial establishment. This relationship had been the basis for countless holdings that examination and admission of attorneys, and their discipline and disbarment, are matters for control by court rule.[28]

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26. It is said that there were 20,000 in all on the roll at the time of integration. On the other hand, many lawyers who had been practicing before statehood never bothered to go and register. 13 J. Am. Jud. Soc. 84 (Oct., 1934).

27. *In re Integration of State Bar of Oklahoma*, 185 Okla. 505, 95 P. 2d 113 (1939).

28. *Ex parte Garland*, 4 Wall. 333, 18 L. Ed. 366 (U. S., 1867); *State* v. *Cannon*, 196 Wis. 531, 221 N. W. 603 (1928); *Com. ex rel. Ward* v. *Harrington*, 266 Ky. 41, 98 S. W. 2d. 53 (1936); *In re Richards*, 333 Mo. 907, 63 S. W. 2d. 672 (1933).

In Illinois this had been held to be an exclusively judicial power, not subject to legislative control.[29] Robert Guinther, president of the Ohio State Bar Association, in 1933 had specifically urged integration by rule of court rather than by legislative enactment.[30]

In 1931 a bar bill similar to California's was enacted in Utah[31] and one was introduced in South Dakota, but it was defeated after encountering strenuous opposition in the legislature. In the debate, the opponents spoke favorably of the short-form bill enacted years before in North Dakota. Thereupon, in the closing hours of the session, a substitute bill was introduced and passed, establishing a public association to be known as the State Bar of South Dakota, directing the Supreme Court of South Dakota to call the first annual meeting of the new organization, and giving the Supreme Court "power to do such acts and things as may be necessary to accomplish the organization of the State Bar."[32]

A meeting was held in Rapid City in August of that year, and by-laws were drawn up which were subsequently approved by the court.

MORE CAMPAIGNS IN 1933.

The year 1933 saw eleven legislative campaigns for bar integration, with bills introduced in the legislatures of Arizona, Indiana, Kansas, Michigan, Missouri, Montana,

29. *In re Day*, 181 Ill. 73, 54 N. E. 646 (1899).

30. Guinther, "Supreme Court Can Organize Bar," 17 J. Am. Jud. Soc. 39 (Aug., 1933).

31. Laws 1931, Ch. 48, §§ 1-25, now Utah Code Ann. 1953, Vol. 9, Title 78, Part 6, Ch. 51, §§ 1-44, pp. 404-451, and 1959 Cum. Pocket Supp., pp. 48-49.

32. Laws 1931, Ch. 84; S. D. Code 1939, 1960 Supp., Vol. 2, Title 32, §§ 32.1101-32.1124, pp. 51-55; 76 S. D. ix-xiii. "Utah and South Dakota Bar Bills Enacted," 14 J. Am. Jud. Soc. 188 (April, 1931). "State Bar Organized in South Dakota," 15 J. Am. Jud. Soc. 70-71 (Oct., 1931).

North Carolina, Oregon, Texas, Washington and Wyoming. Three of these became law—Arizona, which was after the California pattern, Washington, on the short form, and North Carolina.

The North Carolina act was notable because it did not contemplate the discontinuance of the North Carolina Bar Association. The North Carolina integrated bar is managed by a council composed of representatives from each of 20 superior court districts, chosen by the lawyers in those districts. For more than a quarter of a century the North Carolina State Bar and the North Carolina Bar Association have existed side by side, a continuing refutation of the argument that integration of the bar compels a lawyer to join his state bar association whether he wants to or not. Membership in the North Carolina Bar Association is voluntary as it always was, and no lawyer is or can be compelled to join it. Neither is anyone compelled to join the North Carolina State Bar—a voluntary decision to become a North Carolina lawyer is simultaneously a voluntary decision to become a member of that state's bar. In practice the work of the integrated bar is limited to admissions and discipline, while social, educational, public relations and other activities are carried on by the North Carolina Bar Association.[33]

LOUISIANA.

The Louisiana bar, like the Oklahoma bar, was first integrated by statute and then later on by rule of court after repeal of the statute.

The integration statute was passed in 1934. It followed

33. "Washington, Arizona, North Carolina Bar Bills Enacted," 16 J. Am. Jud. Soc. 172-3 (April, 1933); *Baker* v. *Varger et al.*, 240 N. C. 260, 82 S. E. 2d. 90 (1954); Winslow, "Voluntary Bar in North Carolina," 6 Duke Bar Ass'n. J. 19-29 (Winter, 1937); Bryson, "Organized Bar in North Carolina," 30 N. C. L. Rev. 335-355 (June, 1952).

the model act in most respects, but there was one important difference which was the reason for its subsequent repeal. The bar was to be governed by a board consisting of one member from each of eight Congressional districts, to be elected by popular vote in general elections along with other public officials.

The effect of such a provision was to open the door to possible political control of the bar. It was criticized by bar leaders both in Louisiana and elsewhere, and in 1940 the objectionable feature was removed. By that time, however, integration by rule of court had gained general recognition and acceptance, and so instead of merely amending the statute the legislature repealed it and memorialized the supreme court to integrate the bar under its inherent power.

In 1942 the new integrated bar of Louisiana was sustained by the Supreme Court of Louisiana against an attack on constitutional grounds including freedom of association and due process of law.[34]

FOURTEEN INTEGRATION BILLS IN 1935.

The year 1935 was the high water mark in bar integration campaigns, with no less than 14 bar bills introduced for legislative action.[35] Only two were enacted, an act providing a statutory organization for the Oregon bar, and a short act authorizing the Supreme Court of Michigan to integrate the Michigan bar. This was noteworthy

34. "Statutory Organization for Louisiana Bar," 18 J. Am. Jud. Soc. 110 (Dec., 1934); *In re Mundy*, 202 La. 41, 11 So. 2d. 398 (1942); "Bar Integration—Compulsory Membership and Payment of Dues," 17 Tulane L. Rev. 493 (Feb., 1943).

35. Arkansas, Colorado, Georgia, Indiana, Michigan, Kansas, Minnesota, Nebraska, Oregon, South Caroline, Tennessee, Texas, Wisconsin and Wyoming. "Oregon Joins Integration Column," 18 J. Am. Jud. Soc. 170 (April, 1935).

because it brought the second major metropolitan center within the integration orbit. Los Angeles had been under integration since 1927; Detroit in 1935 was the fourth largest city in the United States.[36]

The Michigan act was similar to one passed in Kentucky the year before, establishing the state bar as an organization and empowering the supreme court to complete the job. Each court did so, but each court subsequently repudiated the apparent delegation of legislative power and declared that the action was under the court's own inherent power over the lawyers as officers of the court.[37]

INTEGRATION BY PETITION TO COURT.

The Michigan and Kentucky courts by their assertion of inherent power paved the way for the first instance of court rule alone as a method of integration. Following Herbert Harley's 1914 speech in Lincoln, the Nebraska State Bar Association had been the very first to endorse integration and adopt it as an association objective.[38] The Association had gone in vain to the legislature a number of times. In 1937 it went direct to the Supreme Court of Nebraska with a petition to the court to integrate un-

36. "Michigan Bar Integration Bill Adopted," 19 J. Am. Jud. Soc. 21 (June, 1935); Brand, "Bar Integration in the State of Michigan," 14 Indiana L. J. 235-244 (Feb., 1939); Blashfield, "Is Bar Integration Worth the Candle?" 28 Wis. Bar Bull. 8-10, 64-68 (Oct., 1955); Bonisteel, "Twenty-Five Years of Progress," 39 Mich. State Bar J. 20-23 (Nov., 1960).

37. *Ayres* v. *Hadaway*, 303 Mich. 589, 6 N. W. 2d. 905 (1942); statement of Mr. Justice North, 25 J. Am. Jud. Soc. 93 (Oct., 1941); *Com. ex rel. Ward* v. *Harrington*, 266 Ky. 41, 98 S. W. 2d. 63 (1936); *In re Sparks*, 267 Ky. 93, 101 S. W. 2d. 194 (1937); *Kenton C. Bar Ass'n.* v. *Murphy*, 272 Ky. 617, 114 S. W. 2d. 722, cert. denied, 305 U. S. 671, 59 S. Ct. 142 (1938).

38. "Bar Integration Wins," 3 J. Am. Jud. Soc. 148 (Feb., 1920). Judge Clarence N. Goodwin, chairman of the Conference of Bar Association Delegates Committee on Bar Organization, addressed the Nebraska State Bar Association at that Meeting.

der its inherent power, and the petition was accompanied by a set of proposed rules. The court granted the petition and approved the rules. The opinion by Mr. Justice Carter is an able, authoritative and scholarly dissertation on the nature and extent of the court's power and the bar's relation to it.[39]

It was against this background, along with Kentucky and Michigan, that the Louisiana legislature in 1940 memorialized its supreme court to act under its own inherent powers rather than by delegation of legislative power.[40]

Bar integration came to Missouri in part in 1934 and in full in 1944, both by supreme court rule. Efforts for integration by legislation went as far back as 1923, and after an unsuccessful attempt in 1933 the Supreme Court of Missouri, on petition of the Missouri State Bar Association, established the Missouri Bar Administration as a vehicle for the exercise of its inherent powers over bar admission, bar discipline and unauthorized practice. From then until 1944 Missouri was spoken of as a partially integrated state.[41] In 1943 resolutions in favor of full integration were passed by the state bar association and the two local associations in each of the two major cities, as well as other local associations elsewhere in the state. A supreme court committee was appointed in December, 1943, to draft a plan of integration, copies of which were mailed to all Missouri lawyers with ballots, which came back six to one in favor of the plan. The court's order

39. *In re Integration of Nebraska State Bar Assn*, 133 Neb. 283, 273 N. W. 263, 114 A. L. R. 151 (1937); Boslaugh, "Integrated Bar of Nebraska", 13 Mo. Bar. J. 187-192 (Oct., 1942).

40. *Supra*, note 34.

41. Charles A. Beardsley, president of the American Bar Association in 1939, called it the "Missouri compromise".

integrating the bar was entered on June 16, 1944, and the new organization began to function on September 30.[42]

OTHER COURTS ACT ON PETITION.

Other bars since integrated by rule of court on petition include Florida in 1949, and Wisconsin and the Virgin Islands in 1956, the latter being the only instance of integration by action of a federal court.[43]

In the 1920's the Florida bar was demoralized, overrun with immigrant attorneys from other jurisdictions unchecked by adequate admission standards. The state bar association boasted only a handful of members. Devoted and sacrificial labor by a series of great bar leaders brought a steady improvement which in the mid-1930's moved toward closer coordination with the supreme court. In 1936 the bar association's committee on integration submitted by petition a plan similar to that then in operation in Missouri. The court first denied the petition, then on rehearing granted most of it but not the vital item of an annual fee of $3 from each practitioner.[44]

In 1941 a bill for an enabling act passed one house but was defeated in the other after two days of stormy debate.[45] In 1946 the Association directed its board to try again with a petition to the court with draft rules attached.

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42. *In re Richards*, 333 Mo. 907, 63 S. W. 2d 672 (1933); *Clark* v. *Austin*, 340 Mo. 467, 101 S. W. 2d 977 (1937); Hemker, "Integrated Bar Created by Missouri Supreme Court," 28 J. Am. Jud. Soc. 50 (Aug., 1944).

43. *In the matter of the Integration of the Virgin Islands Bar*, Misc. No. 11—1955, reprinted in V. I. Code Ann., Vol. 2, Title 5, Appendix 6, Part 3, pp. 352-359 and Cum. Pocket Supp. 1960, pp. 17-18. *Virgin Islands Bar Ass'n* v. *Dench*, 2 V. I. 331, 124 F. Supp. 257 (1953); app. 3 V. I. 521, 215 F. 2d 810 (1954).

44. *Petition of Florida State Bar Ass'n*, 134 Fla. 851, 186 So. 280 (1938).

45. 25 J. Am. Jud. Soc. 45 (Aug., 1941).

A poll of the bar the following year came out 1,131 to 500 for the rules. The petition was granted early in 1949.[46]

Presumably other documents to be filed in the instant case will inform the Court fully as to Wisconsin bar organization, but a few words about the history of the movement in Wisconsin will be appropriate at this point.

Bar integration was first proposed in Wisconsin in 1914 by Claire B. Bird, then president of the Wisconsin Bar Association, but no action was taken until 1933 when, under the presidency of Carl B. Rix a committee on integration was appointed with Mr. Bird as chairman. The committee enlisted Dean Lloyd K. Garrison of the University of Wisconsin law school, who made an exhaustive study of the subject and drafted a bar bill that was introduced in the 1935 legislature. In a paper read before the state bar association in 1935, Dean Garrison listed the weaknesses of the unintegrated associations:

> "1. The limited number of members. 2. The limited financial resources resulting from small membership. 3. The waste of time and effort required to keep up a proper membership. 4. The difficulty in enforcing discipline without its own limits. 5. The inability to mobilize the bar as a whole in support of desirable movements. 6. The difficulty in coordinating its activities and those of the local associations. 7. The difficulty in assimilating new members of the profession. Another weakness of the voluntary association is that it is open to the generally unfair but frequently effective attack that it represents a clique."[47]

The bar bill was introduced in every legislative session from 1935 to 1943, and Wisconsin has the distinction, not likely to be duplicated, of being the only state in which a

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46. *Petition of Florida State Bar Ass'n*, 40 So. 2d 902 (Fla. Sup. Ct., 1949); "Florida Bar Is Integrated by Supreme Court Rule," 33 J. Am. Jud. Soc. 26-27 (June, 1949) (includes list of integrated states, year and method of integration).

47. Shea, "Wisconsin's Successful Bar Integration Campaign," 27 J. Am. Jud. Soc. 13, 14 (June, 1943).

bar integration bill was *twice* vetoed by an *acting* governor. When the 1943 legislature overrode the veto, Edmund B. Shea, then chairman of the integration committee, reasonably felt that the last hurdle had been surmounted, and he authored an article entitled "Wisconsin's Successful Bar Integration Campaign."[48]

He spoke too soon. The statute was only an enabling act, like Michigan's, leaving affirmative action to the supreme court, and the court decided not to act until the return of lawyers then in military service.[49] The Association tried again in 1946, and then the court in a surprising opinion found fault with the proposal from nearly every angle and in particular declared its unwillingness to undertake the burden of supervising the state bar.[50] The petition was denied, and that was all for eight years, during which interval the Wisconsin Bar Association rewrote its constitution to improve its representative character and general efficiency.[51]

In 1955 under the presidency of Alfred E. LaFrance the Wisconsin Bar Association announced a long-range four-point program, the first item of which was to be a renewed drive for integration of the bar; the second, acquisition of a suitable headquarters building in the city of Madison; the third, reorganization of the state's court system; and fourth, judicial selection reform.[52] A petition direct to the Supreme Court of Wisconsin asking it to proceed un-

48. Shea, "Wisconsin's Successful Bar Integration Campaign," 27 J. Am. Jud. Soc. 13-17 (June, 1943).

49. *Integration of the Bar Case*, 244 Wis. 8, 11 N. W. 2d 604; 151 A. L. R. 586 (1943).

50. *In re Integration of the Bar*, 249 Wis. 523, 25 N. W. 2d 500 (1946); "The Wisconsin Integration Opinion," 30 J. Am. Jud. Soc. 147-150 (Feb., 1947).

51. 21 Wis. Bar Bull. No. 3 (Supplement) (Aug., 1948).

52. La France, "President's Page," 28 Wis. Bar Bull. 5 (Aug., 1955).

der its inherent power was received with favor and granted in June, 1956.[53] Integration was for a two-year trial, subject to re-examination in 1958, but in 1958 the Court found the results excellent and ordered the integrated bar to be continued indefinitely.[54] It was shortly after the handing down of that decision that the instant action was commenced.[55]

VIRGINIA, WEST VIRGINIA AND TEXAS.

In March, 1938, after repeated introductions of a long bar bill, the Virginia legislature passed a short-form bar act under which the Supreme Court of Appeals proceeded to organize and set up an integrated bar.[56] The Virginia organization is similar to that of North Carolina (and indeed, the North Carolina act was patterned after an earlier Virginia draft) in that it is governed by a council, the members of which are elected at meetings in each judicial circuit called by the circuit judges.[57]

In 1945 the West Virginia legislature brought to a successful conclusion a 15-year campaign for integration of the bar of that state. It first began to be talked of in 1931, and it was on the state bar association's program after 1936, when a mail ballot showed the bar strongly in favor

53. *In the Matter of the Integration of the Bar*, 273 Wis. 281, 77 N. W. 2d 601 (1956).

54. *In re Integration of the Bar*, 5 Wis. 2d 618, 93 N. W. 2d 601 (1958).

55. *Lathrop v. Donohue*, 10 Wis. 2d 230, 102 N. W. 2d 404 (1960).

56. Acts 1938, Ch. 410; 1950 Code, Vol. 7, 1958 Replacement, Title 54, Ch. 4, Arts. 1 and 2, §§ 54-48 to 54-42.1 and 1960 Cum. Pocket Supp. pp. 72-73.

57. "Virginia Bar Bill Enacted," 21 J. Am. Jud. Soc. 207 (April, 1938); Rules for Integration of the Virginia State Bar, IV Organization and Government, 5, The Council, Brand, *Bar Associations, Attorneys and Judges—Organization, Ethics, Discipline*, 1956, pp. 675-676.

of it. Bills in 1939 and 1941 failed to pass, and in 1943 it ran into a governor's veto. A petition to the Supreme Court of Appeals for integration by rule of court was denied, the court being understandably reluctant to veto the veto. In 1945, armed with another poll showing lawyers both at home and in war service overwhelmingly in favor, they pushed the bill through to the governor's signature. Interestingly, although the court had declined to integrate by petition alone, the statute expressly declares the inherent rule-making power of the Supreme Court of Appeals.[58]

In April, 1939, after five previous unsuccessful legislative campaigns, the Texas Bar Association obtained enactment of a short enabling act under which in succeeding months the Supreme Court of Texas integrated the State Bar of Texas. Features of the Texas act were its preservation of the right of trial by jury in disbarment cases, and a provision that proposed rules should be submitted by mail for a members' vote and any proposed rule supported by a petition signed by 10 per cent of the lawyers of the state should also be submitted, and those rules winning a majority vote (provided 51 per cent of the lawyers voted) would be the state bar rules.[59]

ARKANSAS.

The Bar Association of Arkansas began a campaign for bar integration in 1934. Following informal conferences with justices of the supreme court, a decision was made

58. "West Virginia State Bar Puts Integrated States in Majority," 28 J. Am. Jud. Soc. 165-169 (April, 1945). Acts 1945, Ch. 44. Code 1955, Ch. 51, § 5183, p. 2308. 128 W. Va. xvii-lxii (rules, constitution, by-laws).

59. "Texas Bar Wins Ten-Year Campaign," 23 J. Am. Jud. Soc. 41 (June, 1939). Acts 1939, 46 Leg. Ch. 1, p. 63, eff. April 19, 1939. Vernon's Texas Civil Stats. Ann., Vol. 1A, Title 14, Art. 320a-1, pp. 191-202, and Cum. Pocket Supp. 1960, p. 7. *Id.*, pp. 203-241 and 1960 Supp. pp. 7-8 (Rules).

to procure a constitutional amendment making judicial power clear. In 1938 the following amendment was adopted by a large majority:

> "The supreme court shall make rules regulating the practice of law and the professional conduct of attorneys at law."[60]

The following year the Supreme Court of Arkansas in compliance with the constitutional mandate established a state-wide organization for disciplinary purposes, managed by a board consisting of one lawyer from each of the seven Congressional districts, and financed by an annual fee of one dollar to be paid by all practitioners.[61] Ever since establishment of this system Arkansas has been listed among the integrated states, even though it is a limited integration applying to discipline only. Meanwhile, the state bar association has continued to function and to press for full integration. Full integration was a perennial item on the Association's program for many years, and in 1953 a petition was presented to the supreme court backed by 71 per cent of the bar and with only 6 per cent registering opposition. The court confirmed this with a poll of its own which drew a favorable vote of 592 to 455. It thereupon granted the petition and invited the sponsors to prepare proposed draft rules for adoption.

The date of that decision was April 12, and the bar association's annual meeting was scheduled to take place less than a month later. Except for that coincidence the plan would undoubtedly have gone through without incident and the integrated organization be in operation today. At the meeting, however, a group of lawyers from the Crittenden County Bar Association reopened the debate on the subject,

60. Const. 1874, Amendment 28.

61. See 207 Ark. xxxi-xxxvii for rules governing admission to the bar and rules regulating conduct of attorneys at law.

resulting in adoption of a resolution asking the court to rescind its April action. Another mail vote was taken and a whirlwind anti-integration campaign resulted this time in a vote of 1,003 to 485 against integration. The court granted a rehearing and denied the petition.[62]

That action, however, did not disturb the organization set up under the 1938 constitutional amendment, by virtue of which Arkansas is still listed as an integrated state in most enumerations.

ALASKA AND PUERTO RICO.

Among the most recent additions to the integrated list is Alaska, the bar of which was integrated by act of the Territorial legislature in 1955.[63] Prior to 1955 the Alaska bar was unorganized except for local associations in Anchorage, Fairbanks, Juneau and Ketchikan. A controlling factor in impelling Alaska lawyers to seek integration was the necessity of establishing more adequate control over discipline and admissions, particularly admissions by transfer, in view of the widespread interest in Alaska occasioned by the statehood boom. Rules covering bar admission, ethics and discipline were adopted by the new organization in June, 1955.[64]

Puerto Rico's bar was incorporated as a quasi-public institution in 1840, under the title of "Colegio de Abogados de Puerto Rico." With the coming of American rule in 1898 they abandoned it for a new voluntary "Asociacion

62. *In re Integrating the Bar*, 222 Ark. 35, 259 S. W. 2d. 144 (1953). "Arkansas Court Grants, then Denies, Integration Petition, at Bar's Request." 37 J. Am. Jud. Soc. 52-53 (Aug., 1953).

63. Laws 1955, Ch. 196. C. L. 1949, 1957 Cum. Supp., Vol. 1, Title 35, Ch. 2, §§ 35-2-77a to 35-2-77, pp. 534-541, as amended by laws 1960, Ch. 178, pp. 282, 284. *In re Paul*, 17 Alaska 360 (1957).

64. Brand, *Bar Associations, Attorneys and Judges—Organization, Ethics, Discipline*, 1959 Supp., pp. 10-18.

de Abogados de Puerto Rico" which lived a languid and precarious life, having lost its former official support and prestige. It was helpless to accomplish anything toward elevating professional standards or bettering the administration of justice. In 1932, after several tries, passage was procured of an act reestablishing the "Colegio" with annual dues up to $10 and with additional revenue from a fee of one dollar on each first pleading. The 800 lawyers on the island voted their approval in a referendum. The organization has since acquired a headquarters building, established group insurance and pension plan, and provided other services to the lawyers and the people of Puerto Rico.[65]

LOOKING AHEAD.

The ranks of the unintegrated states, already a minority, are due to shrink still further in years to come. Integration campaigns and studies are presently under way in six states—District of Columbia, Hawaii, Indiana, Kansas, New York and Tennessee.[66] Bar association committees have been appointed in all six states. The New York State Bar Association scheduled a debate on integration at its

65. Laws of Puerto Rico Annotated, Vol. 1, Title 4, Part 4, Ch. 63, §§ 771-785, pp. 872-880, and 1959 Supp. pp. 189-191. "Porto Rico Lawyers Secure Bar Act," 16 J. Am. Jud. Soc. 104-106 (Dec., 1932); "Porto Rico Bar Accepts New Act," 17 J. Am. Jud. Soc. 152 (Feb., 1934); "Puerto Rico's Integrated Bar Prospers," 22 J. Am. Jud. Soc. 85-86 (Aug., 1938); *Bar Ass'n. of Puerto Rico* v. *Fajardo et al.*, 51 P.R.R. 512 (1937); *In re Bosch*, 65 P.R.R. 232 (1945).

66. "Should There Be an Organized Bar in the District of Columbia?" J. Bar Ass'n D. C. 225-226 (May, 1960). Kidwell, President's Page, 1 Hawaii Bar J. 5-6 (Jan., 1959). Fox, "Proposed Indiana Self-Governing Bar Act," 38 Commercial Law J. 143-147 (March, 1933); "Special Committee to Study Integration of the Bar of Indiana Appointed by President," 4 Res Gestae (Ind. S.B.A.) 3 (Jan., 1960). Spies, "Integrated Bar—Pros and Cons—Feasibility in Kansas," 28 J. Bar Ass'n. State of Kansas 333 (Feb., 1960). Belknap, President's Page, 32 N.Y.S.B. Bull. 153-154 (June, 1960).

1960 midsummer meeting,[67] and arranged for a scholarly research study of bar integration in other states to be conducted by Columbia University's Bureau of Applied Social Research.[68]

Integration will yet come to others of the unintegrated states. The highest courts of Connecticut, Iowa, Massachusetts, Minnesota, Montana, New Jersey and Tennessee, while declining to grant integration petitions for various reasons have done so without prejudice and with affirmation of their power to integrate the bar and their willingness to do it under proper circumstances or upon proper presentation.[69] There is scarcely a state in which some systematic integration campaign has not been undertaken by the leaders of the organized bar some time or other during the past twenty years.[70]

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67. Coulter, "Integration Is the Answer," 32 N.Y.S.B. Bull. 305-309 (Oct., 1960); Edmonds, "Integration of the Bar—A Boon or a Bust?" 32 N.Y.S.B. Bull. 297-304 (Oct., 1960).

68. William A. Glaser, *The Debate Over the Integrated Bar; The Organization of the Integrated Bar; Bibliography on the Integrated Bar*. 30, 35 and 12 pages, respectively. New York, Columbia University, Bureau of Applied Social Research, 1960. Litho-printed.

69. "Proposal for Integrated Bar Rejected," 18 Conn. B. J. 3-8 (April, 1944); "Rules for the Integrated Bar," 20 Conn. B. J. 245-259 (July, 1946); Pryor, "Need for Bar Integration Is Imperative," 21 J. Am. Jud. Soc. 56 (Aug., 1937); "Action Delayed in Iowa," 22 J. Am. Jud. Soc. 207 (April, 1938); *In re Integrated Bar*, 321 Mass. 747, 74 N. E. 2d. 140 (1947); *Petition for Integration of Bar of Minnesota*, 216 Minn. 195, 12 N. W. 2d. 515 (1943); 27 J. Am. Jud. Soc. 147-148 (Feb., 1944); *In re Integration of the Bar of Minnesota*, 226 Minn. 578, 34 N. W. 2d. 157 (1948); *In re Unification of Montana Bar Ass'n.*, 107 Mont. 559, 87 P. 2d. 172 (1939); *In re Unification of the Bar of This Court*, 119 Mont. 494, 175 P. 2d. 773 (1947); "Bar Integration Movement Comes to Halt in New Jersey," 42 J. Am. Jud. Soc. 30 (June, 1958); *Petition for Rule of Court Activating, Integrating and Unifying the State Bar of Tennessee*, 282 S. W. 2d. 782 (1955).

70. Not much interest has been shown in Maine, New Hampshire, Vermont and Delaware, which have small, cohesive bars with something that might be called *de facto* integration.

INTEGRATION AND LOCAL BAR ASSOCIATIONS.

At the 1926 National Conference on Bar Organization the bulk of the opposition that was voiced came from New York and Illinois delegates. The secretary's account of the meeting[71] suggests that at least with respect to New York this was due in part to apprehension that the identity of the local city associations would be merged and lost in the integrated state association. This was due largely to the Gibbs bill, introduced in the New York legislature in 1925, which provided for regional divisions of the integrated state association and provided that any existing local associations might, if they wished, elect to be the nucleus of such regional divisions. This was entirely optional with the existing associations, but it made members of the two large local associations in New York city and New York county wonder what integration might do in one way or another to the fine facilities which were then maintained, and still are, for the benefit of their members.

The answer is that state bar integration does not adversely affect the membership, finances or activities of a local bar association in any way. Indeed, one of the benefits from bar integration has been the boost it has given to local bar associations. Among the finest local bar associations in the country are the Los Angeles Bar Association, the Detroit Bar Association, the Bar Association of St. Louis, the Dallas Bar Association and others represented in the American Bar Association House of Delegates from states having an integrated bar. The Philadelphia Bar Association, the oldest bar association in the United States, has inquired seriously into the possibilities of establishing an integrated bar in that city on a local basis.[72]

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71. *Supra*, note 24.

72. "Philadelphia Bar Committee Studies City-Wide Integration," 36 J. Am. Jud. Soc. 154 (Feb., 1953).

THE INTEGRATION CAMPAIGN.

In commenting on defeat of an integration bill in the 1943 Colorado legislature, Edward L. Wood, then president of the Colorado State Bar Association, said:

> "Our failure is regrettable, but we came closer to success than ever before. May I say to you that I think the integration of the Colorado bar, with its many resulting benefits to the lawyer and the public, is absolutely inevitable. We do not want it, of course, unless a preponderating majority of the lawyers of Colorado want it. There was in this last campaign for integration still a substantial minority of lawyers who opposed it. I am convinced that this opposition exists because the plan is not thoroughly understood, and I am convinced that when the facts of integration actually reach every lawyer in the state, no less than 90 per cent of the entire bar will favor the plan. I think there can be no doubt now that if we lawyers want an integrated bar, the legislature and the supreme court will give it to us."[73]

Mr. Wood's analysis of the Colorado situation can be applied to most of the states where integration campaigns have fallen short of success. States do differ, but what is good for North Dakota just cannot be very bad for Montana, and what is good for North Carolina cannot be too bad for South Carolina. The difference will be found to lie not in the merits or demerits of the integrated bar, nor in the differing conditions of one state as against another, but mostly in the manner, circumstances and energy with which the proposal was presented. In some states there have been special elements of opposition such as a publishing firm which feared that the integrated bar might take over its business.

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73. Quoted in "Planning a Bar Integration Campaign," 27 J. Am. Jud. Soc. 149 (Feb., 1944).

ENDORSEMENTS.

The list of prominent proponents of bar integration throughout the past half-century constitutes an honor roll of the American bar. The leading part played by Elihu Root and Charles Evans Hughes already has been noted.[74] Arthur T. Vanderbilt, addressing the Conference of Bar Association Delegates in 1936, said:

> "All the counter-arguments fall to the ground and all the favorable arguments swing into line as mere supporting corollaries behind this fundamental and conclusive proposition: The organized bar has a pragmatic virtue. In short, it works. It succeeds where the voluntary state bar association has either failed utterly or at best has functioned only partially and spasmodically. Where the bar is unified, it has a standing with the bench, the chief executive, the legislature and the public generally that it has nowhere else attained."[75]

In 1945 the Honorable John J. Parker, late chief judge of the United States Court of Appeals for the Fourth Circuit, wrote to a Maryland correspondent:

> "I hasten to say that the integration of the bar, both in Virginia and North Carolina has been a great success and I do not think any thoughtful lawyer in either state would think for a moment of abandoning it. The benefits from a thing of this sort are, of course, of an intangible nature, but I have a very definite feeling that the atmosphere of the bar in both states has been greatly improved as a result of integration. I would not presume to speak of your local problems in Maryland, but I have no doubt that you would find integration beneficial there just as it has been found

74. *Supra*, notes 13, 23, 24. Goodwin, "Elihu Root and Charles Evans Hughes Were Early Leaders of the Movement for Integration of the Bar," 34 J. Am. Jud. Soc. 149-150 (Feb., 1951).

75. Vanderbilt, "Past, Present and Future of the Legal Profession," 20 J. Am. Jud. Soc. 208, 209 (Feb., 1937).

beneficial in other states. In the last several years I have been all over the United States a number of times, and wherever integration has been tried the members of the bar whose opinion is worth anything have unhesitatingly acclaimed it a success."[76]

Robert H. Jackson, writing in the American Bar Association Journal prior to his becoming an associate justice of this Court, said:

"A basic question that the American Bar Association must decide is which of the two schools of bar association activities it will follow. One school favors a voluntary club of selected members. Opposed to this is the all-inclusive association which is an organization of the whole bar as it is, good, bad and indifferent. While it may not be necessary to abandon our different lawyers' clubs, we need an organized profession, and while this includes some members whose fellowship and opinions we may not value, yet if they are worthy to be admitted as members of the profession, they must not be excluded from the organized bar."[77]

In his recent book *The Legal Profession from Antiquity to Modern Times*, Roscoe Pound declares that the integrated bar has a mission "of first importance," and he goes on to explain:

"By keeping the followers of the different specialties of practice, the different groups into which the lawyers of the large cities of today tend to regroup themselves, conscious of a higher organization of which they are members and to which, as the profession itself, they are responsible, it can stand fast against the disintegrating tendencies which, threatening professions, threaten ultimately the law."[78]

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76. Quoted in Webb, "Whole Bar Organization—A Necessity," 29 J. Am. Jud. Soc. 38, 47 (Aug., 1945).

77. Jackson, "An Organized American Bar," A.B.A.J. 386 (June, 1932).

78. Page 362.

CONCLUSION.

The purpose of these quotations, as of the rest of the contents of the foregoing pages, is not so much to sell the merits of the integrated bar as an institution as it is to make clear that the nationwide movement for integration of the bar is a part of the still broader movement for a better administration of justice which has been gathering steam each decade since the beginning of the century. Indeed, it is the part which is valuable chiefly for the sake of its contribution toward the achievement of the rest, and nowhere is this better demonstrated than in Wisconsin itself. Of the four major objectives laid out in 1955, three have already been attained. It is not a coincidence that integration was the first of the three; it helped to make possible the achievement of the others. As Thomas Coleman, of the West Virginia Bar Association, said:[79]

> "Integration is a goal to be striven for, rather than a status already achieved. It implies a bar united in purpose and spirit, as well as by the forms of law, with a vision of the larger benefits that will come to it and to the public generally when its entire moral and intellectual resources are mobilized and directed to the accomplishment of its ideals."

Respectfully submitted,

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79 28 J. Am. Jud. Soc. 165 (April, 1945).